

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA,

Case No. 8:03-CR-77-T-30TBM

v.

SAMI AMIN AL-ARIAN, et al.,

Defendants.

**DEFENDANT SAMI AMIN AL-ARIAN'S OBJECTIONS TO
GOVERNMENT'S MOTION FOR RULE 16(d)(1) PROTECTIVE ORDER**

COMES NOW the Accused, Sami Amin Al-Arian, by and through his undersigned counsel, objects to the proposed Protective Order as requested by their March 1st, 2004, Motion. As grounds for support, Sami Al-Arian states:

1. The government wishes to classify certain items of evidence as "sensitive information" which were received from Israel pursuant to a request under the authority of the Mutual Legal Assistance Treaty, such evidence pertaining to "all photographs, medical records and autopsy reports of victims of terrorist attacks committed by the Palestinian Islamic Jihad, reports prepared by bomb technicians who investigated such attacks, and any other material of a similar nature..."
2. The government's Order also seeks to prohibit defense counsel from reproducing or photocopying any of this information.

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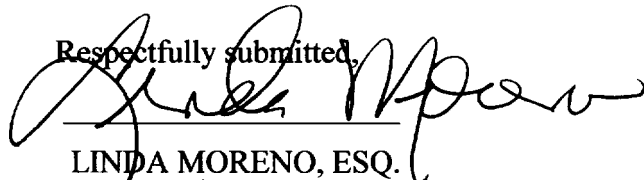
3. The Accused submits all of this evidence is covered by Rule 16 of the Federal Rules of Criminal Procedure and does not require the unique security of a Protective Order.
4. The government has not shown any concomitant United States national security interest that would trigger the provision of a Protective Order. It is not enough to assert that the government of Israel, as represented by the United States Attorney in the most recent discovery conference held before this Honorable Court, wants a protective order. In granting such a request, this Court would allow a foreign government, without any meaningful showing of necessity to our interests, to dictate the process of criminal discovery in a federal prosecution.
5. This so called sensitive information is already covered in the Court's own Second Amended Pretrial Discovery Order (Doc. 152), Section A (4), which provides, in pertinent part:
 - A. In accord with Rule 16 and as otherwise required by law, the Government shall disclose the following information and documents.
Where appropriate, the Government shall supply copies, or make available for inspection, copying or photographing such information or documents....
 4. Results or reports of physical or mental examination, and of scientific tests or experiments, which are material to the preparation of the defense, or are intended for use by the Government, as defined in Rule 16 (a)(1)(F)

6. The Accused argues that this information falls under the terms of the controlling Discovery Order and to allow such an overbroad and restrictive protective order would impede the review of discovery for the defense.
7. Further, some of the evidence may be exculpatory, pursuant to *Brady*, and its progeny, and would require the defense to examine it and have it reviewed by its own experts. As a hypothetical, some of the bomb report information pertaining to these victims may be indicative as bombs customarily used by some other organization, not the Palestinian Islamic Jihad.
8. This protective order is far more expansive in its restrictions than the previous Protective Order that deals with the evidence seized pursuant to FISA. Even that evidence is allowed to be copied and shared with the defense team. In this new proposal, defense counsel will not be allowed to copy any evidence, but will have to escort its own experts to the holding room to review the documents. This impedes unnecessarily discovery by the defense.

WHEREFORE, for the foregoing reasons and such others as may occur to the Court, the Accused respectfully requests that this Honorable Court deny the government's motion for a Protective Order.

Dated: 15 March 2004

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been

Sent via U. S. Mail this 15th day of March, 2004.

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A handwritten signature in black ink, appearing to read 'Linda Moreno', is written over a horizontal line.

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